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AB-1028 Judicial officers: oaths and affirmations. (2015-2016)

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Assembly Bill No. 1028

CHAPTER 308

An act to amend Section 2093 of the Code of Civil Procedure, and to amend Section 1225 of the Government Code, relating to judicial officers.

[Approved by Governor September 21, 2015. Filed with Secretary of State September 21, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1028, Bonta. Judicial officers: oaths and affirmations.

Under existing law, a judicial officer, among others, may administer oaths or affirmations. Existing law also authorizes a former judge or justice of a court of record in this state who retired or resigned from office, other than a judge or justice who was retired by the Supreme Court for disability, to administer oaths and affirmations, if certified by the Commission on Judicial Performance.

This bill would permit a former judge or justice who is retired by the Supreme Court for disability to administer oaths and affirmations, if certified by the Commission on Judicial Performance. This bill would require all former judges and justices to submit a medical certification in conjunction with their applications for certification to administer oaths and affirmations, and it would require the commission to issue a certification to administer oaths and affirmations, valid for five years from the date of issuance, to an applicant if his or her medical certification indicated that he or she did not have a medical condition that would impair his or her ability to administer oaths and affirmations. If the applicant's medical certification indicated that he or she had a medical condition that could impair his or her ability to administer oaths and affirmations, but did not do so at the time of the medical certification's submission, the bill would require the commission to issue a certification to administer oaths and affirmations valid for only two years. This bill would also permit former judges and justices certified before January 1, 2016 to continue to administer oaths and affirmations until January 1, 2017, before needing to reapply for certification pursuant to these provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2093 of the Code of Civil Procedure is amended to read:

2093. (a) A court, judge or clerk of any court, justice, notary public, and officer or person authorized to take testimony in any action or proceeding, or to decide upon evidence, has the power to administer oaths and affirmations.

(b) (1) A shorthand reporter certified pursuant to Article 3 (commencing with Section 8020) of Chapter 13 of Division 3 of the Business and Professions Code has the power to administer oaths and affirmations and may perform the duties of the deposition officer pursuant to Chapter 9 (commencing with Section 2025.010) of Title 4. The certified shorthand reporter shall be entitled to

receive fees for services rendered during a deposition, including fees for deposition services, as specified in subdivision (c) of Section 8211 of the Government Code.

(2) This subdivision shall also apply to depositions taken by telephone or other remote electronic means as specified in Chapter 2 (commencing with Section 2017.010) and Chapter 9 (commencing with Section 2025.010) of Title 4.

(c) (1) A former judge or justice of a court of record in this state who retired or resigned from office shall have the power to administer oaths and affirmations, if both of the following conditions are met:

(A) The former judge or justice requests and receives a certification from the Commission on Judicial Performance pursuant to paragraph (2).

(B) A formal disciplinary proceeding was not pending at the time of the retirement or resignation.

(2) (A) A former judge or justice of a court of record in this state who retired or resigned from office may apply to the commission to receive a certification to administer oaths and affirmations. The commission shall supply the required forms to an applicant upon request.

(B) (i) A certification application shall be accompanied by a medical certification. If an applicant's medical certification indicates that the applicant does not have a medical condition that would impair his or her ability to administer oaths and affirmations, the commission shall issue a certification to the applicant to administer oaths and affirmations. Except as provided in clause (ii), a certification issued pursuant to this paragraph shall be valid for a period of five years from the date of issuance.

(ii) If an applicant's medical certification indicates that the applicant has a medical condition that may impair his or her ability to administer oaths and affirmations, but does not do so at the time the medical certification is submitted with the application, the commission shall issue a certification to administer oaths and affirmations, but the certification shall only be valid for a period of two years from the date of issuance.

(3) Notwithstanding paragraph (1), a former judge or justice of a court of record who received a certification from the commission before January 1, 2016, to administer oaths and affirmations may continue to exercise this power until January 1, 2017, at which time he or she shall reapply for certification pursuant to paragraph (2).

(4) The commission may charge a regulatory fee not to exceed fifteen dollars (\$15) for each certification application submitted pursuant to this subdivision to cover its costs, including costs to review the medical certification.

(d) A rule, or regulation regarding the confidentiality of proceedings of the commission shall not be construed to prohibit the commission from issuing a certificate as provided for in this section.

SEC. 2. Section 1225 of the Government Code is amended to read:

1225. (a) An executive officer, a judicial officer, and a Member of the Legislature may administer and certify oaths.

(b) (1) A former judge of a court of record in this state who retired or resigned from office shall be deemed a judicial officer for purposes of this section, if he or she satisfies the conditions set forth in subdivision (c) of Section 2093 of the Code of Civil Procedure.

(c) A law, rule, or regulation regarding the confidentiality of proceedings of the Commission on Judicial Performance shall not be construed to prohibit the commission from issuing a certificate as provided for in this section.